

No. 89

4th Session, 13th Legislature, Alberta
6 Elizabeth II, 1958

BILL 89

A Bill to amend The Right of Entry Arbitration Act

HON. MR. MANNING

Explanatory Note

2. (a) Reworded for clarification. Subsection (6) of section 12 reads at present:

"(6) Unless otherwise provided in the order, an order of the Board granting right of entry, user or taking of the surface of land is deemed to vest in the operator the exclusive right, title and interest in the surface of the land other than the right to a certificate of title issued pursuant to The Land Titles Act but does not vest in the operator the right to carry away sand and gravel from the land."

(b) New. Permits the operator or his agents to enter on land for the purpose of making surveys.

3. Reworded for clarification. Subsection (1) of section 14 reads:

"14. (1) Where surface rights required by an operator are held under a lease or other form of terminable grant from the Crown, or have been disposed of by the Crown pursuant to an Act or regulation that contemplates the issue of a notification, the operator may make application to the Board for the acquisition of such interest in the surface rights as may be necessary for the efficient and economical performance of his operations."

BILL

No. 89 of 1958

An Act to amend The Right of Entry Arbitration Act

(Assented to _____, 1958)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Right of Entry Arbitration Act*, being chapter 290 of The Revised Statutes of Alberta, 1955, is hereby amended.

2. Section 12 is amended.

(a) by striking out subsection (6) and by substituting the following:

“(6) Notwithstanding any other Act, an order of the Board granting right of entry, user or taking of the surface of land is deemed to vest in the operator, unless otherwise provided in the order, the exclusive right, title and interest in the surface of the land other than the right to a certificate of title issued pursuant to *The Land Titles Act* and the right to carry away sand and gravel from the land.”

(b) by adding immediately after subsection (6) the following new subsection:

“(7) Notwithstanding subsections (1) and (2), an operator proposing to undertake any drilling or mining operation or his agents may enter upon any Crown or other lands

“(a) to make surveys or examinations on the surface of the land for fixing the site of the drilling or mining operation, and

“(b) set out and ascertain such portions of the surface of the land as are incidental to or necessary for the drilling or mining operation.”

3. Section 14, subsection (1) is amended

(a) by striking out the words “are held under a lease or other form of terminable grant from the Crown, or”,

(b) by striking out the word “notification” and by substituting the words “certificate of title”.

4. Reworded for clarification and adds new subsections (2), (3), (4), (5) and (6). Section 15 reads at present:

"15. (1) Where the surface rights required by an operator are held by the Crown, and no person other than the Crown has an interest therein, the operator may make application to the Board for the acquisition of such interest in the surface rights as may be necessary for the efficient and economical performance of his operations.

"(2) A copy of the application shall be filed by the operator

"(a) with the Deputy Minister of Lands and Forests, or when the lands are in a special area, with the Deputy Minister of Municipal Affairs, and

"(b) when the title for the lands shows that another Department has an interest in the lands, with the Deputy Minister of that Department."

4. Section 15 is struck out and the following is substituted.

“15. (1) Where the surface rights required by an operator

“(a) are owned by the Crown and no person other than the Crown has an interest therein, or

“(b) are held of the Crown under a disposition that does not contemplate the issue of a certificate of title,

the operator may make application to the Board for the acquisition of such interest in the surface rights as may be necessary for his operations.

“(2) The application shall be accompanied by a plan or map on a scale satisfactory to the Board showing

“(a) the proposed location of the land in which the interest is required with its approximate dimensions and coloured or outlined in red, and

“(b) the quarter sections, or what would be quarter sections if the land were surveyed under *The Alberta Surveys Act*, in which the land is situated.

“(3) The operator shall file a copy of the application

“(a) with the Deputy Minister of Lands and Forests, or when the lands are in a special area, with the Deputy Minister of Municipal Affairs, and

“(b) when the title for the lands shows that another Department has an interest in the lands, with the Deputy Minister of that Department,

and shall serve a copy of the application on any occupant of the land.

“(4) Notwithstanding sections 16 and 20, after the filing of an application in accordance with subsection (3), the Board may in its discretion issue an order granting the operator immediate right of entry for so much of the surface of any quarter section shown on the plan or map accompanying the application as may be necessary for his operations, and in the order the Board may,

“(a) stipulate that a further plan satisfactory to the Board or a plan of survey of the surface of the land, or any part thereof in which an interest has been acquired by the operator, be submitted to the Board within a specified time, and

“(b) make such other terms and conditions as the Board deems necessary.

“(5) Notwithstanding anything to the contrary in this Act, an operator who has been issued an order granting immediate right of entry under this section may enter into an agreement with any other person with respect to the use of the surface of the land referred to in the order so long as the order is in full force and effect.

“(6) The provisions of section 18 apply *mutatis mutandis* to this section.”.

5. (a) Reworded for clarification and adds a new clause permitting the operator to file a letter of consent in Form D in the Schedule executed by an owner or occupant agreeing to the issuing of an order granting immediate right of entry. Subsection (1) of section 18 reads at present:

"18. (1) Notwithstanding anything in this Act, after the filing of an application the Board may, if it deems it proper to do so, issue an order granting immediate right of entry, user or taking of the surface of the land,

"(a) upon the operator providing security in such amount as may be prescribed by the Board, and

"(b) after seven clear days have elapsed from the date of personal service, or fourteen days from the date of any substituted service, on the owner and the occupant, of

"(i) a copy of the application, and

"(ii) a notice in Form B in the Schedule."

(b) New.

6. (a) Reworded for clarification. Subsection (3) of section 19 reads at present:

"(3) Where a well has been drilled for the production or removal of any minerals and it is proposed to operate the well for any of the purposes mentioned in subsection (1), an application may be made for the acquisition of such interest in the surface as is necessary for the proposed operation of the well."

(b) Reworded for clarification. Subsection (4) reads:

"(4) The provisions of this Act governing the right of entry, user or taking of the surface for or in connection with operations for the production and removal of minerals apply in so far as they are applicable to an application or an order for the right of entry, user or taking of the surface of land for any of the purposes mentioned in subsection (1)."

7. (a) Subsection (1) of section 20 reads at present:

"20. (1) The Board shall determine

"(a) what portion of the surface rights the operator requires for or incidental to the efficient and economical performance of the operations,

"(b) the exact position of the portion of the surface rights required.

5. Section 18 is amended

- (a) as to subsection (1)
 - (i) by adding immediately after the words “surface of the land,” the words “upon the operator providing security in such amount as may be prescribed by the Board, and”,
 - (ii) by striking out clause (a) and by substituting the following:
 - “(a) upon the operator filing with the Board a letter of consent in Form D in the Schedule signed by the owner and occupant, or”
- (b) by adding immediately after subsection (5) the following new subsections:
 - “(6) Where the Board has issued an order granting immediate right of entry after the filing of
 - “(a) a letter of consent in Form D in the Schedule, or
 - “(b) a waiver in Form C in the Schedule, the Board shall hold a hearing to determine the compensation payable to the owner and occupant at such time and place as the Board deems advisable in accordance with section 16.
 - “(7) Where the Board receives an objection after the serving of a notice in Form B in the Schedule on an owner and occupant, the Board shall hold a hearing with respect to the application and objection at such time and place as the Board deems advisable in accordance with section 16.”.

6. Section 19 is amended

- (a) by striking out subsection (3) and by substituting the following:
 - “(3) Where an interest in the surface of any land has been acquired by an operator under an order of the Board for any purpose mentioned in subsection (1) of section 12, the operator has the right to enter upon, use and take the surface of the land for any of the purposes mentioned in subsection (1) of this section.”,
- (b) as to subsection (4) by striking out the words “for or in connection with operations for the production and removal of minerals” and by substituting the words “for any purpose mentioned in subsection (1) of section 12”.

7. Section 20 is amended

- (a) as to subsection (1) by striking out clause (b),

(b) New.

8. Adds a new Form D to the Schedule. See note 5(a).

(b) by adding immediately after subsection (2) the following new subsections:

“(3) In determining the amount of compensation payable under subsection (1) the Board may fix certain amounts payable in such manner and over such periods of time as the Board may decide.

“(4) Notwithstanding any other Act, where no thoroughfare exists on a road allowance as prescribed under *The Alberta Surveys Act*, an operator has the right to use the road allowance for the purpose of gaining access to his drilling or mining operation without the payment of compensation to the Crown.”.

8. The Schedule is amended by adding immediately after Form C the following:

“FORM D
“(Section 18)

“THE RIGHT OF ENTRY ARBITRATION ACT
“LETTER OF CONSENT
“BETWEEN

AND (applicant)
(respondent)

I, of
(name of owner or occupant)

acknowledge receipt of a copy of the attached application and plan that the applicant intends to file with the Board of Arbitration under *The Right of Entry Arbitration Act*.

I consent to the Board of Arbitration issuing an order granting immediate right of entry to the applicant pursuant to *The Right of Entry Arbitration Act*, in accordance with the application and plan providing that the application is filed with the Board within twenty days of the date of execution of this letter of consent.

It is understood that execution by me of this letter of consent does not in any way affect my rights to compensation.

Dated at the of
in the Province of Alberta, this day of 19.....

Signed:

Witnessed:

TO: The Secretary,
Board of Arbitration,
Right of Entry Arbitration Act,
Edmonton, Alberta.”.

9. This Act comes into force on the day upon which it is assented to.

No. 89

FOURTH SESSION

THIRTEENTH LEGISLATURE

6 ELIZABETH II

1958

BILL

An Act to amend The Right of Entry
Arbitration Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING
